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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 9, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:09HD-091

Hawaii

Grant of Perpetual, Non-Exclusive Easement to the County of Hawaii for Road and Utility Purposes, Issuance of Immediate Construction Right-of-Entry; Honokohau 1st, North Kona, Hawaii, Tax Map Key: 3rd/7-4-08:05 por.

APPLICANT:

County of Hawaii

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Honokohau 1st, situated in North Kona, Hawaii, identified by Tax Map Key: 3rd/7-4-08:05 por., as shown on the attached map labeled Exhibit A.

ZONING:

LUC: Agriculture
CZO: A-5a

AREA:

Parcel area: 394.410 acres
Easement area: 1,226 sq. ft.

ENCUMBRANCES:

There are no encumbrances on the State-owned trail portion of the parcel. The remainder of the parcel is privately owned.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Historic trail including archaeological features such as curbstones.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for road and utility purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The County of Hawaii intends to publish its Final Environmental Assessment for the subject project in the OEQC's Environmental Notice in October 2009, and anticipates a finding of no significant impact (FONSI).

DCCA VERIFICATION:

Not applicable. The County of Hawaii is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Publish its Final Environmental Assessment in the OEQC's Environmental Notice

and obtain a FONSI;

- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

Ane Keohokalole Mid-Level Highway is planned as a major connector road linking Kailua-Kona with points north. The highway would serve as a multi-modal transportation corridor, including options for pedestrians and bicycles. At its meeting of April 24, 2009, Item D-5, the Board of Land and Natural Resources approved the set-aside to the County of Hawaii (County or Applicant) of a portion of the roadway located within the Villages of Laiopua subdivision. Another portion of the road is located on the subject private land. The County is acquiring a road right-of-way over this land from the owner, Lanihau Properties LLC.

Within the subject private land is a segment of the mauka-makai Trail to Honokohau. The Trail to Honokohau formerly connected the village of Kohanaiki on the slopes of Hualalai to the Aimakapa Fish Pond. See map attached as Exhibit B. The Na Ala Hele program within the Department of Land and Natural Resource's Division of Forestry and Wildlife has determined that the Trail to Honokohau is in State ownership pursuant to the Highways Act of 1892, now codified at Hawaii Revised Statutes Section 264-1, et seq. As a result, the County requires a perpetual road and utility easement over the trail in order to construct and maintain the highway. The County explains that it needs to secure legal access over the easement areas as soon as possible to qualify for federal funding.

As part of the archaeological investigation required in the environmental assessment process, two additional trail segments were located within private lands in other areas of the road corridor. TMK 3rd/ 7-4-20:10 contains a lateral trail segment within the ahupua'a of Keahuolu. See map attached as Exhibit C. The segment consists of smooth stepping-stones over a section of a'a lava flow. TMK 3rd/ 7-4-24:12 contains another mauka-makai trail within the ahupua'a of Honokohau 2nd. See map attached as Exhibit D. It is not clear whether these trails are in State ownership. If further research by Na Ala Hele determines that these trails are owned by the State, additional easements may be required for portions of the highway crossing these trails.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

As is evident from the maps and additional material provided by the County of Hawaii, there is no way to construct a lateral road in this area without crossing the Trail to Honokohau. The County selected a final roadway alignment that avoids disturbance of

intact sections of the trail, as recommended by the State Historic Preservation Division and Na Ala Hele. The County advises that it will install commemorative signs at the trail crossing to acknowledge the historic and cultural significance of the trail. In addition, a 10-foot-wide pedestrian crossing will be provided when a management plan for the trail can be implemented with the adjacent landowners. The preferred location for this crossing is at a roadway intersection.

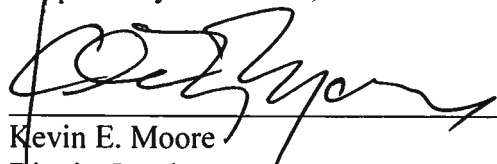
By memorandum dated September 4, 2009, staff solicited comments on the proposed disposition from DLNR's Historic Preservation Division and the Na Ala Hele program, the National Park Services' Kaloko-Honokohau National Historical Park and the Office of Hawaiian Affairs. Staff requested that any comments be submitted by September 28, 2009. However, no comments were received by that date.

RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to the County of Hawaii covering the subject Trail to Honokohau segment for road and utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Grant an immediate construction and management right-of-entry to the County of Hawaii, its consultants, contractors, and/or persons acting for or on its behalf, onto the subject Trail to Honokohau segment under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current construction and management right-of-entry form, as may be amended from time to time;
 - B. This right-of-entry is effective upon Land Board approval and shall continue until the easement instrument is duly executed and finalized; and

- C. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force.

Respectfully Submitted,



Kevin E. Moore
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



File Name: C:\Program Files\Microsoft Office\Office\Wordpad.exe
File Size: 68 KB
File Type: Application



GRAPHIC SCALE



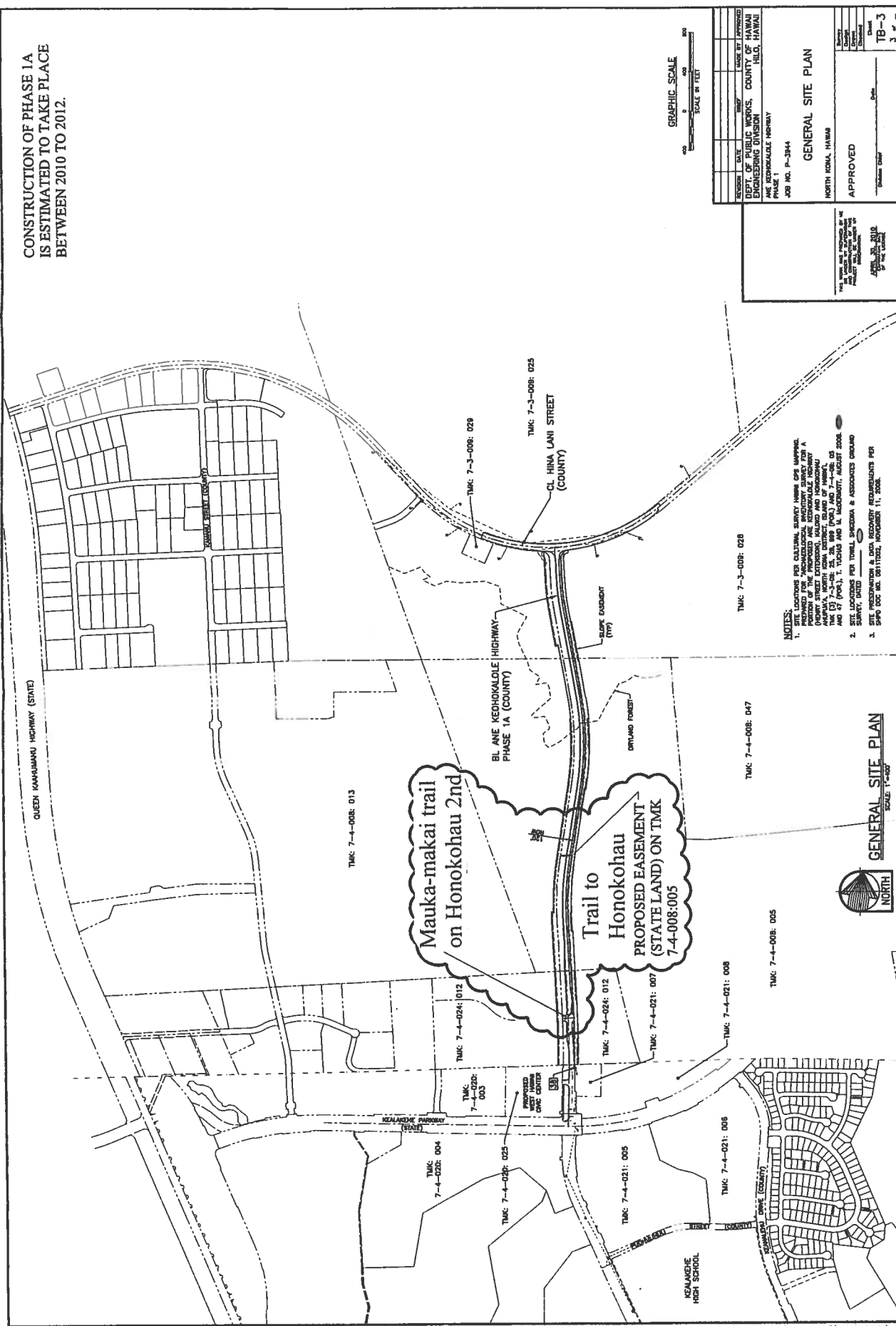
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SCALE IN FEET

GENERAL SITE PLAN

Doc
TA-3

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CONSTRUCTION OF PHASE 1A
IS ESTIMATED TO TAKE PLACE
BETWEEN 2010 TO 2012.



GRAPHIC SCALE
0 400 800
SCALE IN FEET

REVISION	DATE	BY	DATE BY
COUNTY OF HAWAII ENGINEERING DIVISION PHASE 1 JOB NO. P-3844 GENERAL SITE PLAN NORTH KONA, HAWAII APPROVED DATE DRAWN CHECKED TB-3 3			

NOTES:
1. SITE LOCATIONS FOR CULTURAL SURVEY HAVE BEEN MAPPED.
2. THE PROPOSED EASEMENT IS A PORTION OF THE PROPOSED ANE KEOKOHALE HIGHWAY PHASE 1A, WHICH IS A PROJECT OF THE HAWAIIAN HIGHWAY BOARDS, NORTH KONA DISTRICT, BOARD OF HAWAII.
3. THE PROPOSED EASEMENT IS A PORTION OF THE PROPOSED ANE KEOKOHALE HIGHWAY PHASE 1A, WHICH IS A PROJECT OF THE HAWAIIAN HIGHWAY BOARDS, NORTH KONA DISTRICT, BOARD OF HAWAII.
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90% SUBMITTAL 7/21/08

EXHIBIT D